

February 25, 1955.

NEW HAMPSHIRE LAW LIBRARY

Dr. Earl K. Holt, Superintendent
New Hampshire State Hospital
Concord, New Hampshire

SEP 22 1998

CONCORD, N.H.

Dear Dr. Holt:

This is in response to your letter of the 16th relative to the proper procedure for the care of newborn babies of patients at the New Hampshire State Hospital. You state that the practice has been to care for such children in the Medical and Surgical Building until arrangements could be made for their disposition. You indicate that it would be more desirable to transfer these children to the Concord Hospital as soon as possible, but that a question exists as to method of paying the Concord Hospital for services rendered, when the parents are indigent.

Under the pauper law (Revised Laws, chapter 124, section 1) the overseers of the poor of a town are required to relieve and maintain persons, in that town, who are poor and unable to support themselves. A child born at the hospital of indigent parents would be entitled to such support. A town is not liable, however, to an individual furnishing services to a pauper where the town did not request that the services be rendered. French v. Benton, 44 N.H. 28.

If the City of Concord agrees to and does support the child in question and if the child has a settlement in some other town or has relatives of sufficient ability Concord may recover the sum expended of the town or person so chargeable. (Revised Laws, chapter 124, sections 19 et seq.) If the child in question has no settlement or relatives so chargeable recovery may be had from the county (Revised Laws, chapter 125, section 3). Concord is not, however, in a desirable position in these cases. Although it has the right to recover from the town of settlement the process of recovery might include litigation and delay. This situation will not exist if the town of settlement agrees to bear the expense incurred in the care of the child.

The first thing that you should do in such cases is to determine whether or not the child, when born, will have a settlement in any town in the state. If it is found that the child

have a settlement you should contact the overseers of the poor in the town of settlement. If the town of settlement refuses to make arrangements for the maintenance and support of the child you should then contact the overseers of the poor in Concord. You should advise Concord officials of the situation and ask them to make arrangements for the support of the child. All of this should take place as far in advance of the birth of the child as possible. The important thing is to receive authorization from one of the localities before the services are rendered.

If, on the other hand, the City of Concord and the place of settlement both refuse to commit themselves for the expense involved you should as soon as possible contact the Department of Public Welfare. Upon filing a petition, immediately after the birth of the child custody may be awarded to the Department (Revised Laws, chapter 132, section 10). The Department could obtain temporary custody in very short order. If custody is so awarded to the Commissioner of Public Welfare the expense for the maintenance and care of the child must be borne by the town in which the child resided, although the town has the usual right of action over for such expense against whoever is legally chargeable for the child's support. (Revised Laws, chapter 132, section 7, as amended by Laws of 1953, chapter 205).

It might be a good idea to discuss this matter with officials of the Welfare Department in order to work out a procedure for handling these cases when they arise.

Very truly yours,

Elmer T. Bourque
Law Assistant

ETB:1

cc - Leonard Hill, Business Supervisor
Department of Administration and Control